

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L CARACAS 000898

SIPDIS

NSC FOR TSHANNON AND CBARTON
USCINSO ALSO FOR POLAD
STATE PASS USAID FOR DCHA/OTI

E.O. 12958: DECL: 03/15/2014

TAGS: [PGOV](#) [PHUM](#) [KDEM](#) [VE](#)

SUBJECT: TSJ ELECTORAL CHAMBER ORDERS CNE TO VERIFY
SIGNATURES

Classified By: Political Counselor Abelardo A. Arias for Reason 1.4(d)

Summary:

[1](#)1. (U) The Electoral Chamber of the Supreme Court of Justice (TSJ), issued a ruling March 15 ordering the National Electoral Council (CNE) to include more than 800,000 presidential referendum signatures among the valid signatures that will be subject to the appeals process (reparo). In theory, the decision gives the opposition enough signatures to schedule a presidential recall referendum. Caracas Mayor Freddy Bernal (MVR) called the decision illegal and said they would take the matter to the Constitutional Chamber. End Summary.

Electoral Chamber Storms Back, Rules for the Opposition

[1](#)2. (U) Justice Alberto Martini, president of the Electoral Chamber of the Supreme Court of Justice (TSJ), announced a ruling March 15 ordering the National Electoral Council (CNE) to include more than 800,000 presidential referendum signatures among the valid signatures that will be subject to the appeals process (reparo). The CNE had placed the signatures in question in an "under observation" category because some corresponding data on the petition forms was written in the same handwriting. An opposition suit claims the CNE never published guidelines directing signers to fill in all information with separate handwriting, and therefore alleges the CNE's failure to certify the signatures is illegal (septel).

[1](#)3. (U) The Electoral Chamber's decision came after legal motions lodged by the opposing sides, and a March 11 declaration by the TSJ's Constitutional Chamber that purported to take jurisdiction on the case away from the Electoral Chamber. In his announcement, Martini questioned TSJ Constitutional Chamber President Ivan Rincon's motivation

SIPDIS
for issuing what he described as an invalid and illegal ruling assuming jurisdiction. Martini emphasized that the Electoral Chamber holds primary authority for all electoral issues, and suggested the Constitutional Chamber issued its decision without a valid quorum of justices.

Constitutional Court Reiterates Legitimacy

[1](#)4. (U) Within two hours of the Electoral Chamber's announcement, Constitutional Chamber president Ivan Rincon issued a statement defending the March 11 decision claiming jurisdiction. The statement said that four of the Constitutional Chamber's five justices were present, forming a valid quorum, and refused to give ground on the Electoral Chamber's claims of exclusive purview over matters having to do with the CNE.

GoV Quick to Criticize; More Legal Moves Coming

[1](#)5. (U) Freddy Bernal, the mayor of Caracas' Libertador Municipality and a member of Chavez's ruling Fifth Republic Movement (MVR) party, responded immediately to the Electoral Chamber's decision on behalf of the GoV. Bernal called the decision illegal and in violation of the Constitutional Chamber's jurisdiction. Bernal said the MVR national directorate would shortly appeal the decision to the TSJ's Constitutional Chamber. (Note: There was no explanation offered for why Bernal was the spokesman for this legal issue.)

Opposition Buoyed, But Not Counting Its Chickens

16. (C) Jose Luis Mejias of the opposition Premero Justicia party, told poloff March 15 he expects the Electoral Chamber decision to be challenged in the Constitutional Chamber. Nevertheless, Mejias said the decision may give the opposition another two or three days of breathing room to negotiate a better deal for an appeals process.

Comment:

17. (C) Today's court announcement is merely another move in the continuing legal contest between the parties. In theory, the Electoral Chamber's decision adds 800,000 to the 1.8 million signatures the CNE has already verified, bringing the total to 2.6 million, more than the 2.4 million minimum necessary to schedule a presidential recall referendum. But the TSJ's wrestling match over control of election issues may not be settled soon. Both sides say a majority of justices in the Electoral Chamber are pro-opposition, while a majority in the Constitutional Chamber are pro-Chavez. Under Court rules, if two chambers of the TSJ issue conflicting rulings, the decision could be thrown to the whole TSJ sitting en banc, where court-watchers believe the tribunal is deadlocked ten to ten. But an outright victory is not necessary. Pro-Chavez justices may delay a final decision on the question, effectively allowing the CNE to operate independently. If a final resolution is reached, it will likely result from a political deal rather than from a clear legal pronouncement.
SHAPIRO

NNNN

2004CARACA00898 - CONFIDENTIAL